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8  
9 **BEFORE THE**  
**BOARD OF REGISTERED NURSING**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. *2013-627*

13 **CAROL ANN BURNER,**  
14 **AKA CAROL ANN CHASE**  
236 Willamette Avenue  
15 Placentia, California 92870

**A C C U S A T I O N**

16 **Registered Nurse License No. 491634**

17 Respondent.

18  
19 Complainant alleges:

20 **PARTIES**

21 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her  
22 official capacity as the Executive Officer of the Board of Registered Nursing, Department of  
23 Consumer Affairs.

24 2. On or about September 30, 1993, the Board of Registered Nursing issued  
25 Registered Nurse License Number 491634 to Carol Ann Burner, also known as Carol Ann Chase  
26 (Respondent). The Registered Nurse License was in full force and effect at all times relevant to  
27 the charges brought herein and will expire on May 31, 2013, unless renewed.

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1 person who holds a license, upon the ground that the applicant or the licensee has  
2 been convicted of a crime substantially related to the qualifications, functions, and  
3 duties of the licensee in question, the record of conviction of the crime shall be  
4 conclusive evidence of the fact that the conviction occurred, but only of that fact,  
5 and the board may inquire into the circumstances surrounding the commission of  
6 the crime in order to fix the degree of discipline or to determine if the conviction is  
7 substantially related to the qualifications, functions, and duties of the licensee in  
8 question.

9 As used in this section, "license" includes "certificate," "permit,"  
10 "authority," and "registration."

11 9. Section 2761 of the Code states:

12 The board may take disciplinary action against a certified or licensed  
13 nurse or deny an application for a certificate or license for any of the following:

14 (a) Unprofessional conduct, which includes, but is not limited to, the  
15 following:

16 . . . .

17 (f) Conviction of a felony or of any offense substantially related to the  
18 qualifications, functions, and duties of a registered nurse, in which event the  
19 record of the conviction shall be conclusive evidence thereof.

20 . . . .

21 10. Section 2762 of the Code states:

22 In addition to other acts constituting unprofessional conduct within the  
23 meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct  
24 for a person licensed under this chapter to do any of the following:

25 . . . .

26 (b) Use any controlled substance as defined in Division 10 (commencing  
27 with Section 11000) of the Health and Safety Code, or any dangerous drug or  
28 dangerous device as defined in Section 4022, or alcoholic beverages, to an extent or  
in a manner dangerous or injurious to himself or herself, any other person, or the  
public or to the extent that such use impairs his or her ability to conduct with safety  
to the public the practice authorized by his or her license.

(c) Be convicted of a criminal offense involving the prescription,  
consumption, or self-administration of any of the substances described in  
subdivisions (a) and (b) of this section, or the possession of, or falsification of a  
record pertaining to, the substances described in subdivision (a) of this section, in  
which event the record of the conviction is conclusive evidence thereof.

(d) Be committed or confined by a court of competent jurisdiction for  
intemperate use of or addiction to the use of any of the substances described in  
subdivisions (a) and (b) of this section, in which event the court order of  
commitment or confinement is prima facie evidence of such commitment or  
confinement.

. . . .

11. Section 2765 of the Code states:

A plea or verdict of guilty or a conviction following a plea of *nolo contendere* made to a charge substantially related to the qualifications, functions and duties of a registered nurse is deemed to be a conviction within the meaning of this article. The board may order the license or certificate suspended or revoked, or may decline to issue a license or certificate, when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code allowing such person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information or indictment.

### REGULATORY PROVISIONS

12. California Code of Regulations, title 16, section 1444, states:

A conviction or act shall be considered to be substantially related to the qualifications, functions or duties of a registered nurse if to a substantial degree it evidences the present or potential unfitness of a registered nurse to practice in a manner consistent with the public health, safety, or welfare. Such convictions or acts shall include but not be limited to the following:

- (a) Assaultive or abusive conduct including, but not limited to, those violations listed in subdivision (d) of Penal Code Section 11160.
- (b) Failure to comply with any mandatory reporting requirements.
- (c) Theft, dishonesty, fraud, or deceit.
- (d) Any conviction or act subject to an order of registration pursuant to Section 290 of the Penal Code.

13. California Code of Regulations, title 16, section 1445 states:

(b) When considering the suspension or revocation of a license on the grounds that a registered nurse has been convicted of a crime, the board, in evaluating the rehabilitation of such person and his/her eligibility for a license will consider the following criteria:

- (1) Nature and severity of the act(s) or offense(s).
- (2) Total criminal record.
- (3) The time that has elapsed since commission of the act(s) or offense(s).
- (4) Whether the licensee has complied with any terms of parole, probation, restitution or any other sanctions lawfully imposed against the licensee.

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1 (5) If applicable, evidence of expungement proceedings pursuant  
2 to Section 1203.4 of the Penal Code.

3 (6) Evidence, if any, of rehabilitation submitted by the licensee.

4 **COST RECOVERY**

5 14. Section 125.3 of the Code provides, in pertinent part, that the Board may request  
6 the administrative law judge to direct a licensee found to have committed a violation or  
7 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation  
8 and enforcement of the case.

9 **FIRST CAUSE FOR DISCIPLINE**

10 **(January 27, 2012 Conviction for Driving Under the Influence On September 11, 2010)**

11 15. Respondent has subjected her registered nurse license to disciplinary action under  
12 Code sections 490 and 2761, subdivision (f), in that she was convicted of a crime that is  
13 substantially related to the qualifications, functions, and duties of a registered nurse. The  
14 circumstances are as follows:

15 a. On January 27, 2012, in a criminal proceeding entitled *The People of the*  
16 *State of California v. Carol Ann Burner, aka Carol Ann Chase*, in Orange County Superior  
17 Court, Central Justice Center, case number 10CM10227, Respondent was convicted on her plea  
18 of guilty to violating Vehicle Code (VC) section 23152, subdivision (a), driving under the  
19 influence of alcohol (DUI), a misdemeanor. A charge for violation of Health and Safety Code  
20 (HSC) section 11550, subdivision (a), use and under the influence of amphetamines, a  
21 misdemeanor, was dismissed pursuant to a plea bargain.

22 b. As a result of the conviction, Respondent was sentenced to three years  
23 informal probation and ordered to pay fees and fines. Respondent was also ordered to attend and  
24 complete a first offender alcohol program and a Mothers Against Drunk Driving (MADD)  
25 Impact Panel.

26 c. The facts that led to the conviction are that on September 11, 2010, an  
27 officer of the Orange Police Department observed Respondent driving with a bag on her head  
28 through a parking lot in the vicinity of West Chapman Avenue in Orange, California. The officer

1 investigated the suspicious sight and noticed that Respondent had the car heater on and was  
2 dripping with sweat. When asked about the heater, the sweat, and the bag, Respondent said that  
3 she did not have the heater on; that she was splashed with water by her ex-husbands friends, and  
4 that she was not driving with a bag on her head. While speaking with Respondent, the officer  
5 noticed that she had the objective symptoms of being under the influence of a controlled  
6 substance in that she had dilated pupils, had onset of bruxism, and could not stand still. When  
7 asked if she had taken any illegal drugs or prescription medication, Respondent said that she had  
8 taken four 30 milligram Adderal pills and that she was supposed to take one to two pills  
9 throughout the day as needed. Respondent had two bottles of Adderall with her name on the  
10 labels. During the conduct of a HSC section 11550 evaluation, Respondent's Rhomberg test  
11 result, pulse, pupillary comparison, and pupillary reaction indicated that she was under the  
12 influence of a controlled substance. A blood sample was drawn from Respondent, which was to  
13 be tested at the Orange County Crime Laboratory.

#### 14 **SECOND CAUSE FOR DISCIPLINE**

##### 15 **(Unprofessional Conduct - Use Of Controlled Substance in a Dangerous Manner)**

16 16. Respondent has subjected her registered nurse license to disciplinary action under  
17 Code section 2762, subdivision (b), in that on September 11, 2010, as described in paragraph 15,  
18 above, she used a controlled substance to an extent or in a manner that was potentially dangerous  
19 and injurious to herself and to others when she operated a motor vehicle while under its influence.

#### 20 **THIRD CAUSE FOR DISCIPLINE**

##### 21 **(Unprofessional Conduct - Conviction Of a Drug Related Criminal Offense)**

22 17. Respondent has subjected her registered nurse license to disciplinary action under  
23 Code section 2762, subdivision (c), in that on January 27, 2012, as described in paragraph 15,  
24 above, Respondent was convicted of criminal offenses involving the consumption of a controlled  
25 substance.

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PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

1. Revoking or suspending Registered Nurse License Number 491634, issued to Carol Ann Burner, also known as Carol Ann Chase;

2. Ordering Carol Ann Burner to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

3. Taking such other and further action as deemed necessary and proper.

DATED:

*February 19, 2013*

*Louise R. Bailey*  
LOUISE R. BAILEY, M.ED., RN  
Executive Officer  
Board of Registered Nursing  
Department of Consumer Affairs  
State of California  
Complainant

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